

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

ALEXANDER SEKERDY, JR.,

Plaintiff,

v.

Case No. 3:21-CV-55
Henrico General District Court Case: GV20-9477

WALMART SUPERCENTER – Store #2295.

and

WAL-MART STORES EAST, LP.

Defendants.

NOTICE OF REMOVAL

Defendants Wal-Mart Stores East, LP (“Walmart LP”), properly named, and Walmart Supercenter - Store # 2295, improperly named, (collectively, “Walmart”), jointly by counsel and pursuant to 28 U.S.C. §§ 1441 and 1446, hereby file this Notice of Removal on the following grounds:

1. Plaintiff Alexander Sekerdy, Jr. (“Plaintiff”), filed a Complaint in the City of Richmond General District Court on June 2, 2020 alleging that the negligence of Walmart caused injury to Plaintiff on April 9, 2020 at a Walmart store located at 7901 Brook Rd in Henrico County, VA.

2. The registered agent of Walmart was served with a Summons and a copy of the Complaint on June 5, 2020, and the confirmation of service is attached hereto as Exhibit A. The

Summonses to the named Walmart Defendants and the Complaint are attached collectively hereto as Exhibits B.

3. Prior to the General District Court return date, Walmart and counsel for the Plaintiff agreed to an order transferring venue from the City of Richmond General District Court to the Henrico County General District Court. The agreed order was signed on July 15, 2020, a copy of which is attached hereto as Exhibit C.

4. After transfer of the case to Henrico County General District Court, the case was set for trial and Walmart filed a Grounds of Defense on October 5, 2020, a copy of which is attached hereto as Exhibit D.

5. On January 8, 2021, counsel for the Plaintiff sent a proposed order to counsel for Walmart. The order was an agreed order increasing the ad damnum of Plaintiff's complaint from \$25,000 to \$1,000,000 and transferring the matter from the Henrico County General District Court to the Henrico County Circuit Court. A copy of the proposed Order is attached hereto as Exhibit E.

6. Counsel for Walmart signed the order and sent the order to the court for entry. Upon information from the Henrico County General District Court, the order was entered on or about January 28, 2021.

GROUND FOR REMOVAL

7. Upon information and belief, Plaintiff is a resident of the City of Richmond and therefore a resident of Virginia.

8. Wal-Mart Stores East, LP is a Delaware limited partnership with its principal place of business in Bentonville, Arkansas.

- a. Wal-Mart Stores East, LP, has two partners: WSE Management, LLC and WSE Investment, LLC, both of which are Delaware limited liability companies, with their principal place of business in Bentonville, Arkansas at the time of filing this action and at the present time.
- b. The sole member of WSE Management, LLC is Wal-Mart Stores East, LLC, an Arkansas limited liability corporation with its principal place of business in Bentonville, Arkansas at the time of filing this action and at the present time.
- c. The sole member of WSE Investment, LLC is also Wal-Mart Stores East, LLC.
- d. The sole member of Wal-Mart Stores East, LLC is Walmart Inc.
9. Walmart Supercenter – Store # 2295 is not a legal entity and is otherwise not a citizen of Virginia.
10. This action therefore involves a controversy wholly between citizens of different states. There is complete diversity of citizenship.
11. The amount in controversy exceeds the value of \$75,000, exclusive of interest and costs, because upon the Henrico County General District Court's signing of the agreed order, the ad damnum of the complaint was increased from \$25,000 to \$1,000,000.00 in compensatory damages against Walmart.
12. This Court therefore has original jurisdiction in this matter pursuant to 28 U.S.C. § 1332(a), and it may be removed to this Court pursuant to 28 U.S.C. § 1441(a).

COMPLIANCE WITH PROCEDURAL REQUIREMENTS

13. This case was not removable previously because the ad damnum of the complaint was below the amount in controversy required for removal.

14. This case became removable on January 8, 2021 upon receipt by defense counsel of the proposed Order increasing the ad damnum to \$1,000,000, as the order constituted “other paper” under federal law. See 28 U.S.C. § 1446(b)(3). Alternatively, the case became removable when the Henrico General District Court entered the order increasing the ad damnum.

15. Pursuant to 28 U.S.C. § 1446 (b)(3), this Notice of Removal is being filed within thirty (30) days after receipt by Walmart of the “other paper” by which this case became removable.

16. Pursuant to 28 U.S.C. § 1441(a), venue of this removal action is proper in the Eastern District of Virginia, Richmond Division, because it is in the district and division embracing the place where the state court action is pending.

17. Promptly after the filing of this Notice of Removal, Walmart will give written notice of the removal to Plaintiff, the adverse party, and will file a copy of this Notice of Removal with the Henrico County General District Court, as required by 28 U.S.C. § 1446(d).

18. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders served upon Walmart in the state court action have been attached hereto.

19. All named Defendants each consent to removal.

20. Walmart demands a trial by jury pursuant to Federal Rule of Civil Procedure 38.

WHEREFORE, Wal-Mart Stores East, LP and Walmart Inc., by counsel, respectfully request that this action be removed from the Circuit Court of the City of Fredericksburg, Virginia, to this Court.

WAL-MART STORES EAST, LP
WALMART SUPERCENTER – STORE
#2295



By: _____
Counsel

D. Cameron Beck (VSB No. 39195)
Jonathan W. Gonzalez (VSB No. 92259)
Victoria L. Howell (VSB No. 93633)
McCandlish Holton, PC
1111 East Main Street, Suite 2100
Post Office Box 796
Richmond, Virginia 23218
(804) 775-3100 Telephone
(804) 775-3834 Facsimile
cam.beck@lawmh.com
jgonzalez@lawmh.com
vhowell@lawmh.com
Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of February, 2021, a true and accurate copy of the foregoing will be sent via email and U.S mail to:

Christopher P. Yakubisin (VSB No. 91186)
TRONFELD WEST & DURRETT
4020 West Broad Street
Richmond, Virginia 23230
Tel: (804) 358-6741
Fax: (804) 355-0226
cyakubisin@twdinjurylaw.com
Counsel for Plaintiff

/s/ _____
Jonathan W. Gonzalez (VSB No. 92259)
Attorney for Walmart
McCandlish Holton, PC
P.O. Box 796
Richmond, VA 23218
(804) 775-3100 Telephone
(804) 775-3800 Facsimile
jgonzalez@lawmh.com